

JAIME LEDESMA, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND CITIWIDE MOTORS INC., RESPONDENTS.

G.R. No. 86051. September 01, 1992

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

Petitioner impugns the Decision of 22 September 1988 of respondent Court Of Appeals [1] in C.A.-G.R. CV No. 05955[2] reversing the decision of then Branch XVIII-B (Quezon City) of the then Court of First Instance (now Regional Trial Court) of Rizal in a replevin case, Civil Case No. Q-24200, the dispositive portion of which reads:

"Accordingly, the Court orders the plaintiff to return the repossessed Isuzu Gemini, 1977 Model vehicle, subject of this case to the defendant Ledesma. The incidental claim (sic) for damages professed by the plaintiff are dismissed for lack of merit. On defendant's counterclaim, Court (sic) makes no pronouncement as to any form of damages, particularly, moral, exemplary and nominal in view of the fact that Citiwide has a perfect right to litigate its claim, albeit by this pronouncement, it did not succeed." [3]

which was supplemented by a Final Order dated 26 June 1980, the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING, the Court grants defendant Ledesma the sum of P35,000.00 by way of actual damages recoverable upon plaintiff's replevin bond. Plaintiff and its surety, the Rizal Surety and Insurance Co., are hereby ordered jointly and severally to pay defendant Jaime Ledesma the sum of P10,000.00 as damages for the wrongful issue of the writ of seizure, in line with Rule 57, Sec. 20, incorporated in Rule 60, Sec. 10.

In conformity with the rules adverted to, this final order shall form part of the judgment of this Court on September 5, 1979.

The motion for reconsideration of the judgment filed by the plaintiff is hereby DENIED for lack of merit. No costs at this instance." [4]

The decision of the trial court is anchored on its findings that (a) the proof on record is not persuasive enough to show that defendant, petitioner herein, knew that the vehicle in question was the object of a fraud and a swindle[5] and (b) that plaintiff, private respondent herein, did not rebut or contradict Ledesma's evidence that valuable consideration was paid for it.

The antecedent facts as summarized by the respondent Court of Appeals are as follows:

"On September 27, 1977, a person representing himself to be Jojo Consunji, purchased purportedly for his father, a certain Rustico T. Consunji, two (2) brand new motor vehicles from plaintiff-appellant Citiwide Motors, Inc., more particularly described as follows:

- a) One (1) 1977 Isuzu Gemini, 2-door Model PF 50ZIK, with Engine No. 751214 valued at P42,200.00; and
- b) One (1) 1977 Holden Premier Model 8V41X with Engine No. 198--1251493, valued at P58,800.00.

Said purchases are evidenced by Invoices Nos. 3054 and 3055, respectively. (See Annexes A and B).

On September 28, 1977, plaintiff-appellant delivered the two-above described motor vehicles to the person who represented himself as Jojo Consunji, allegedly the son of the purported buyer, Rustico T. Consunji, and said person in turn issued to plaintiff-appellant Manager's Check No. 066-110-0638 of the Philippine Commercial and Industrial Bank dated September 28, 1977 for the amount of P101,000.00 as full payment of the value of the two (2) motor vehicles.

However, when plaintiff-appellant deposited the said check, it was dishonored by the bank on the ground that it was tampered with, the correct amount of P101.00 having been raised to P101,000.00 per the bank's notice of dishonor. (Annexes F and G).

On September 30, 1977, plaintiff-appellant reported to the Philippine Constabulary the criminal act perpetrated by the person who misrepresented himself as Jojo Consunji and in the course of the investigation, plaintiff appellant learned that the real identity of the wrongdoer/impostor is Armando Suarez who has a long line of criminal cases against him for estafa using this similar modus operandi.

On October 17, 1977, plaintiff-appellant was able to recover the Holden Premier vehicle which was found abandoned somewhere in Quezon City.

On the other hand, plaintiff-appellant learned that the 1977 Isuzu Gemini was transferred by Armando Suarez to third persons and was in the possession of one Jaime Ledesma at the time plaintiff-appellant instituted this action for replevin on November 16, 1977.

In his defense, Jaime Ledesma claims that he purchases (sic) and paid for the subject vehicle in good faith from its registered owner, one Pedro Neyra, as evidenced by the Land Transportation Commission Registration Certificate No. RC01427249.

After posting the necessary bond in the amount double the value of the subject motor vehicle, plaintiff-appellant was able to recover possession of the 1977 Isuzu Gemini as evidenced by Atilt Sheriff's Return dated January 23, 1978.”[6]

After trial on the merits, the lower court rendered the decision and subsequently issued the Final Order both earlier adverted to, which plaintiff (private respondent herein) appealed to the respondent Court of Appeals; it submitted the following assignment of errors:

"The trial court erred:

I

IN HOLDING THAT THE DEFENDANT IS ENTITLED TO THE POSSESSION OF THE CAR;

II

IN HOLDING THAT THE DEFENDANT IS AN INNOCENT PURCHASER IN GOOD FAITH AND FOR VALUE;

III

IN RULING THAT THE PLAINTIFF SHOULD RETURN THE CAR TO DEFENDANT, DISMISSING ITS CLAIM FOR DAMAGES, AND GRANTING DEFENDANT P35,000.00 DAMAGES RECOVERABLE AGAINST THE REPLEVIN BOND AND P10,000.00 DAMAGES FOR ALLEGED WRONGFUL SEIZURE;

IV

IN RENDERING THE DECISION DATED SEPTEMBER 3, 1979 AND THE FINAL ORDER DATED JUNE 26, 1980.”[7]

In support of its first and second assigned errors, private respondent cites Article 559 of the Civil Code which provides:

“ARTICLE 559. The possession of movable property acquired in good faith is equivalent to a title. Nevertheless, one who has lost any movable or has been unlawfully deprived thereof, may recover it from the person in possession of the same.

If the possessor of a movable lost or of which the owner has been unlawfully deprived, has acquired it in good faith at a public sale, the owner cannot obtain its return without reimbursing the price paid therefor.”

Without in any way reversing the findings of the trial court that herein petitioner was a buyer in good faith and for valuable consideration, the respondent Court ruled that:

“‘Under Article 559, Civil Code, the rule is to the effect that if the owner has lost a thing, or if he has been unlawfully deprived of it, he has a right to recover it not only from the finder, thief or robber, but also from third persons who may have acquired it in good faith from such finder, thief or robber. The said article establishes two (2) exceptions to the general rule of irrevendicability (sic), to wit: when the owner (1) has lost the thing, or (2) has been unlawfully deprived thereof. In these cases, the possessor cannot retain the thing as against the owner who may recover it without paying any indemnity, except when the possessor acquired it in a public sale.’ (Aznar vs. Yapdiangco, 13 SCRA 486).

Put differently, where the owner has lost the thing or has been unlawfully deprived thereof, the good faith of the possessor is not a bar to recovery of the movable unless the possessor acquired it in a public sale of which there is no pretense in this case. Contrary to the court’s assumption, the issue is not primarily the good faith of Ledesma for even if this were true, this may not be invoked as a valid defense, if it be shown that Citiwide was unlawfully deprived of the vehicle.

In the case of *Dizon vs. Suntay*, 47 SCRA 160, the Supreme Court had occasion to define the phrase ‘unlawfully deprived’, to wit:

‘x x x it extends to all cases where there has been no valid transmission of ownership including depositary or lessee who has sold the same. It is believed that the owner in such a case is undoubtedly unlawfully deprived of his property and may recover the same from a possessor in good faith.’

x x x

In the case at bar, the person who misrepresented himself to be the son of the purported buyer, Rustico T. Consunji, paid for the two (2) vehicles using a check whose amount has been altered from P101.00 to P101,000.00. There is here a case of estafa. Plaintiff was unlawfully deprived of the vehicle by false pretenses executed simultaneously with the commission of fraud (Art. 315 2(a) R.P.C.). Clearly, Citiwide would not have parted with the two (2) vehicles were it not for the false representation that the check issued in payment thereupon (sic) is in the amount of P101,000.00, the actual value of the two (2) vehicles.”[8]

In short, said buyer never acquired title to the property; hence, the Court rejected the claim of herein petitioner that at least, Armando Suarez had a voidable title to the property.

His motion for reconsideration having been denied in the resolution of the respondent Court of 12 December 1988,[9] petitioner filed this petition alleging therein that:

“A

THE HONORABLE COURT OF APPEALS ERRED IN APPLYING ARTICLE 559 OF THE NEW CIVIL CODE TO THE INSTANT CASE DESPITE THE FACT THAT PRIVATE RESPONDENT CITIWIDE MOTORS, INC. WAS NOT UNLAWFULLY DEPRIVED OF THE SUBJECT CAR, AS IN FACT CITIWIDE VOLUNTARILY PARTED WITH THE TITLE AND POSSESSION OR (sic) THE SAME IN FAVOR OF ITS IMMEDIATE TRANSFEREE.

B

THE FACTUAL MILIEU OF THE INSTANT CASE FALLS WITHIN THE OPERATIVE EFFECTS OF ARTICLES 1505 AND 1506 OF THE NEW CIVIL CODE CONSIDERING THAT THE IMMEDIATE TRANSFEREE OF THE PRIVATE RESPONDENT CITIWIDE MOTORS, INC., ACQUIRED A VOIDABLE TITLE OVER THE CAR IN QUESTION WHICH TITLE WAS NOT DECLARED VOID BY A COMPETENT COURT PRIOR TO THE ACQUISITION BY THE PETITIONER OF THE SUBJECT CAR AND ALSO BECAUSE PRIVATE RESPONDENT, BY ITS OWN CONDUCT, IS NOW PRECLUDED FROM ASSAILING THE TITLE AND POSSESSION BY THE PETITIONER OF THE SAID CAR.”[10]

There is merit in the petition. The assailed decision must be reversed.

The petitioner successfully proved that he acquired the car in question from his vendor in good faith and for valuable consideration. According to the trial court, the private respondent's evidence was not persuasive enough to establish that petitioner had knowledge that the car was the object of a fraud and a swindle and that it did not rebut or contradict petitioner's evidence of acquisition for valuable consideration. The respondent Court concedes to such findings but postulates that the issue here is not whether petitioner acquired the vehicle in that concept but rather, whether private respondent was unlawfully deprived of it so as to make Article 559 of the Civil Code apply.

It is quite clear that a party who (a) has lost any movable or (b) has been unlawfully deprived thereof can recover the same from the present possessor even if the latter acquired it in good faith and has, therefore, title thereto for under the first sentence of Article 559, such manner of acquisition is equivalent to a title. There are three (3) requisites to make possession of movable property equivalent to title, namely: (a) the possession should be in good faith; (b) the owner voluntarily parted with the possession of the thing; and (c) the possession is in the concept of owner.[11]

Undoubtedly, one who has lost a movable or who has been unlawfully deprived of it cannot be said to have voluntarily parted with the possession thereof. This is the justification for the exceptions found under the second sentence of Article 559 of the Civil Code.

The basic issue then in this case is whether private respondent was unlawfully deprived of the cars when it sold the same to Rustico Consunji, through a person who claimed to be Jojo Consunji, allegedly the latter's son, but who nevertheless turned out to be Armando Suarez, on the faith of a Manager's Check with a face value of P101,000.00, dishonored for being altered, the correct amount being only P101.00.

Under this factual milieu, the respondent Court was of the opinion, and thus held, that private respondent was unlawfully deprived of the car by false pretenses.

We disagree. There was a perfected unconditional contract of sale between private respondent and the original vendee. The former voluntarily caused the transfer of the certificate of registration of the vehicle in the name of the first vendee -- even if the said vendee was represented by someone who used a fictitious name -- and likewise voluntarily delivered the cars and the certificate of registration to the vendee's alleged representative. Title

thereto was forthwith transferred to the vendee. The subsequent dishonor of the check because of the alteration merely amounted to a failure of consideration which does not render the contract of sale void, but merely allows the prejudiced party to sue for specific performance or rescission of the contract, and to prosecute the impostor for estafa under Article 315 of the Revised Penal Code. This is the rule enunciated in *EDCA Publishing and Distributing Corp. vs. Santos*,^[12] the facts of which do not materially and substantially differ from those obtaining in the instant case. In said case, a person identifying himself as Professor Jose Cruz, dean of the De la Salle College, placed an order by telephone with petitioner for 406 books, payable upon delivery. Petitioner agreed, prepared the corresponding invoice and delivered the books as ordered, for which Cruz issued a personal check covering the purchase price. Two (2) days later, Cruz sold 120 books to private respondent Leonor Santos who, after verifying the seller's ownership from the invoice the former had shown her, paid the purchase price of P1,700.00. Petitioner became suspicious over a second order placed by Cruz even before his first check had cleared; hence, it made inquiries with the De la Salle College. The latter informed the petitioner that Cruz was not in its employ. Further verification revealed that Cruz had no more account or deposit with the bank against which he drew the check. Petitioner sought the assistance of the police which then set a trap and arrested Cruz. Investigation disclosed his real name, Tomas de la Peña, and his sale of 120 of the books to Leonor Santos. On the night of the arrest, the policemen whose assistance the petitioner sought, forced their way into the store of Leonor and her husband, threatened her with prosecution for the buying of stolen property, seized the 120 books without a warrant and thereafter turned said books over to the petitioner. The Santoses then sued for recovery of the books in the Municipal Trial Court which decided in their favor; this decision was subsequently affirmed by the Regional Trial Court and sustained by the Court of Appeals. Hence, the petitioner came to this Court by way of a petition for review wherein it insists that it was unlawfully deprived of the books because as the check bounced for lack of funds, there was failure of consideration that nullified the contract of sale between it and the impostor who then acquired no title over the books. We rejected said claim in this wise:

"The contract of sale is consensual and is perfected once agreement is reached between the parties on the subject matter and the consideration. According to the Civil Code:

ART. 1475. The contract of sale is perfected at the moment there is a meeting of minds upon the thing which is the object of the contract and upon the price.

From that moment, the parties may reciprocally demand performance, subject to the provisions of the law governing the form of contracts.

x x x

ART. 1477. The ownership of the thing sold shall be transferred to the vendee upon the actual or constructive delivery thereof.

ART. 1478. The parties may stipulate that ownership in the thing shall not pass to the purchaser until he has fully paid the price.

It is clear from the above provisions, particularly the last one quoted, that ownership in the thing sold shall not pass to the buyer until full payment of the purchase price only if there is a stipulation to that effect. Otherwise, the rule is that such ownership shall pass from the vendor to the vendee upon the actual or constructive delivery of the thing sold even if the purchase price has not yet been paid.

Non-payment only creates a right to demand payment or to rescind the contract, or to criminal prosecution in the case of bouncing checks. But absent the stipulation above noted, delivery of the thing sold will effectively transfer ownership to the buyer who can in turn transfer it to another."^[13]

In the early case of *Chua Hai vs. Hon. Kapunan*,^[14] one Roberto Soto purchased from the Youngstown

Hardware, owned by private respondent, corrugated galvanized iron sheets and round iron bars for P6,137.70; in payment thereof, he issued a check drawn against the Security Bank and Trust Co. without informing Ong Shu that he (Soto) had no sufficient funds in said bank to answer for the same. In the meantime, however, Soto sold the sheets to, among others, petitioner Chua Hai. In the criminal case filed against Soto, upon motion of the offended party, the respondent Judge ordered petitioner to return the sheets which were purchased from Soto. Petitioner's motion for reconsideration having been denied, he came to this Court alleging grave abuse of discretion and excess of jurisdiction. In answer to the petition, it is claimed that *inter alia*, even if the property was acquired in good faith, the owner who has been unlawfully deprived thereof may recover it from the person in possession of the same unless the property was acquired in good faith at a public sale.[15] Resolving this specific issue, this Court ruled that Ong Shu was not illegally deprived of the possession of the property:

"x x x It is not denied that Ong Shu delivered the sheets to Soto upon a perfected contract of sale, and such delivery transferred title or ownership to the purchaser. Says Art. 1496:

‘Art. 1496. The ownership of the thing sold is acquired by the vendee from the moment it is delivered to him in any of the ways specified in articles 1497 to 1501, or in any other manner signifying an agreement that the possession is transferred from the vendor to the vendee.’ (C.C.)

The failure of the buyer to make good the price does not, in law, cause the ownership to revest in the seller until and unless the bilateral contract of sale is first rescinded or resolved pursuant to Article 1191 of the new Civil Code.

And, assuming that the consent of Ong Shu to the sale in favor of Soto was obtained by the latter through fraud or deceit, the contract was not thereby rendered void *ab initio*, but only voidable by reason of the fraud, and Article 1390 expressly provides that:

‘ART. 1390. The following contracts are voidable or annulable, even though there may have been no damage to the contracting parties:

- (1) Those where one of the parties is incapable of giving consent to a contract;
- (2) Those where the consent is vitiated by mistake, violence, intimidation, undue influence or fraud.

These contracts are binding, unless they are annulled by a proper action in court. They are susceptible of ratification.’

Agreeably to this provision, Article 1506 prescribes:

‘ARTICLE 1506. Where the seller of goods has a voidable title thereto, but his title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith, for value, and without notice of the seller's defect of title.’ (C.C.)

Hence, until the contract of Ong Shu with Soto is set aside by a competent court assuming that the fraud is established to its satisfaction), the validity of appellant's claim to the property in question can not be disputed, and his right to the possession thereof should be respected.”[16]

It was therefore erroneous for the respondent Court to declare that the private respondent was illegally deprived of the car simply because the check in payment therefor was subsequently dishonored; said Court also erred when it divested the petitioner, a buyer in good faith who paid valuable consideration therefor, of his possession thereof.

WHEREFORE, the challenged decision of the respondent Court of Appeals of 22 September 1988 and its Resolution of 12 December 1988 in C.A.-G.R. CV No. 05955 are hereby SET ASIDE and the Decision of the trial court of 3 September 1979 and its Final Order of 26 June 1980 in Civil Case No. Q-24200 are hereby

REINSTATED, with costs against private respondent Citiwide Motors, Inc.

SO ORDERED.

Gutierrez, Jr., (Chairman), Bidin, and Romero, JJ., concur.
Feliciano, J., on official leave.

[1] Per Associate Justice Oscar M. Herrera, concurred in by Associate Justices Jorge S. Imperial and Fernando A. Santiago.

[2] Entitled Citiwide Motors, Inc., Plaintiff-Appellant, vs. Jaime Ledesma, et al., Defendants-Appellees.

[3] Annex "A" of Petition; Rollo, 23-28, at p. 28.

[4] Id., 33; 40.

[5] Id., 27.

[6] Rollo, 42-43.

[7] Rollo, 41-42.

[8] Rollo, 45-46.

[9] Annex "E" of Petition; Rollo, 59-60.

[10] Id., 7-8.

[11] TOLENTINO, A.M., Civil Code of the Philippines, Vol. II, 1983 ed., 275-276, citing 2-II Colin and Capitant 942; De Buen; Ibid., 1009, 2 Salvat 165; 4 Manresa, 339.

[12] 184 SCRA 614 [1990].

[13] 184 SCRA 618 [1990].

[14] 104 Phil. 110 [1958].

[15] Article 559, Civil Code.

[16] 104 Phil. 116-117 [1958].

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